

Prior law provided that an applicant for a waste water discharge permit for a community-owned domestic sewerage treatment facility must comply with all rules, regulations, and provisions of the PSC regarding closure, performance, and surety bonds and must follow those terms until ownership or management is transferred.

New law provides that any applicant or prospective transferee of an effluent discharge permit for a privately-owned sewerage treatment facility regulated by the PSC shall be required to have a bond or other financial security, payable to DEQ, and which will be conditioned upon compliance with the requirements of the Louisiana Water Control Law. A bond shall be executed by the permittee and a corporate surety licensed to do business in the state. DEQ shall establish the forms of the financial security and the amounts required, based on the type and size of the facilities. The security shall be for the protection of public health, welfare, and the environment.

New law provides that the secretary may enter an order requiring forfeiture of the financial security or a part of it, if the secretary determines that:

- (1) The facility is a threat to public health, welfare or the environment because the permittee is unwilling or unable to operate the facility, or has abandoned the facility. The secretary's determination can be based on the following evidence:
 - (a) Pollutant discharge exceeds permit limits.
 - (b) Inadequate disinfection facilities.
 - (c) Failure to correct collection system overflow or backup problems.
 - (d) A public health emergency is called by the state health officer.
 - (e) The PSC determines that the permittee is financially unable to operate or maintain the system.
- (2) Reasonable and practical efforts have been made to obtain corrective actions; and
- (3) It does not appear that the corrective actions will be taken within an appropriate time.

New law provides that the proceeds of any forfeiture shall be used to address or correct the problems and to maintain and operate the system. The proceeds shall be in addition to any other funds appropriated to the department and may be expended without additional action by the legislature and shall not be subject to certain other Chapters of existing law.

New law further provides that a review of the secretary's decision shall be exclusively by appeal to the 19th JDC and his decision shall not be stayed pending the appeal.

New law is applicable to the issuance, renewal, modification, or transfer of existing permits, after July 1, 1999, or upon the effective date of the rules promulgated under new law, whichever is earlier.

Existing law provides that a receiver may be appointed by a court to protect the assets and operate a public sanitary sewerage system.

Existing law provides that court shall appoint a receiver if it finds that:

- (1) The system has been abandoned:

- (2) The system no longer operates or will cease operation shortly:
- (3) The operator has failed to comply with an emergency order issued pursuant to this Chapter:
- (4) Any other circumstances that indicate that receivership is necessary to ensure uninterrupted sewer service or to protect the public health or environment.

New law retains existing law and adds the provision that the court shall place the public sanitary sewerage system into receivership upon finding that the operator of the system has failed to provide or maintain a bond or other financial security as required by law.

Prior law provided that its provisions shall not effect a system whose applicant applied for or received a permit prior to April 1, 1993.

New law repeals prior law in its entirety.

Effective August 15, 1999.

(Amends R.S. 30:2075.2(A); Adds R.S. 30:2075.3(A)(2)(e); Repeals R.S. 30:2075.2(D))